

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA

v.

DAVID RAY

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CASE NO. 3:07-cr-106-WKW

ORDER

On June 27, 2007, Defendant David Ray filed a Motion to Continue August 6, 2007 Trial (Doc. #63). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. § 3161(c)(1). See *United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any “[a]ny period of delay resulting from a continuance granted by any judge . . . at the request of the defendant or his counsel . . . if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(8)(A).

In Ray’s motion to continue, his counsel asserts that he was appointed to the case recently and has not had sufficient time to prepare for trial. The government does not oppose the motion. Consequently, the court concludes that a continuance of this case is warranted and that the ends

of justice served by continuing this case outweigh the best interest of the public and the defendant in a speedy trial.

Accordingly, it is hereby ORDERED that:

1. The motion to continue (Doc. # 63) is GRANTED.
2. The trial of this case is continued from the **August 6, 2007**, trial term to the **November 5, 2007**, trial term.
3. The Magistrate Judge shall conduct a pretrial conference prior to the **November 5, 2007**, trial term and enter a pretrial conference order.

DONE this 29th day of June, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE